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10/755,032	01/09/2004	Hideo Ikeno	CANO:112	7881

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EXAMINER	
MEJIA, ANTHONY	

ART UNIT	PAPER NUMBER
2451	

NOTIFICATION DATE	DELIVERY MODE
12/24/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail@rkmlegalgroup.com

Office Action Summary	Application No.	Applicant(s)	
	10/755,032	IKENO, HIDEO	
	Examiner	Art Unit	
	ANTHONY MEJIA	2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 December 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) *4-8,12-16 and 18* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,9-11,17 and 19-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on 13 October 2009 has been entered.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Japanese Application No. 2003-005155, filed on 10 January 2003.

Response to Amendment

3. Acknowledgement is made that Claims 4-8, 12-16, 18 are canceled. Claims 23-24 have been added, Claims 1-2, 9-10, 17, 19, and 21 have been amended, and are pending with previously presented Claims 3, 11, and 20.

Response to Arguments

4. Applicant's arguments at pages 8-9 of remarks dated **08 December 2009** regarding the rejection of Claims 1-2, 9-10, 17, and 19-22 under 35 U.S.C. 102 (e) have been fully considered but are deemed moot in view of the following new grounds of

rejection as explained here below, necessitated by Applicant's substantial amendments to the claims which significantly affected the scope thereof.

Claim Objections

5. Claims 1-3, 9-11, 17 and 19-22 are objected to because of the following informalities: the use of the word ***configured*** is considered by the Examiner to be interpreted as *intended use*. For example, in Claim 1, the claimed monitoring apparatus comprises an e-mail unit, a receiving unit, a processing unit, an information collecting unit, a returning unit, which are all ***configured*** to perform the claimed functionalaties of the claim limitations which constitutes for intended use since the claimed monitoring apparatus, e-mail, receiving, processing, information collecting, returning unit units can all be ***configured*** to perform the claimed functionalaties in the limitations. Claims 2-3, 9-11, 17, and 19-22 are also objected for the same deficiencies.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-2, 9-10, 17, and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turnbull (US 7,146,412) in further view of Inamori et al. (US 2001/0042102) (referred herein after as Inamori).

Regarding Claim 1, Turnbull teaches a monitoring apparatus (host computer 108) capable of acquiring information by communication from at least one image forming apparatus (computing device 102(2)) to be monitored and communicating with a management apparatus (server 110) (col.4, lines 55-58, col.5, lines 61-67, and col.6, lines 1-2), the monitoring apparatus comprising:

an e-mail unit (e-mail application program) configured to carry out communication with the management apparatus by e-mail (col.5, lines 28-36, and col.7, lines 62-67);

a processing unit (CPU 336) configured to be operable when said e-mail unit has received second modules for updating first modules (current firmware), on which the monitoring apparatus operates, from the management apparatus by e-mail, to automatically update the first modules in operation to the second modules (upgraded firmware) (col.5, lines 36-51, and col.7, lines 30-33 and lines 62-67);

an information unit (upgrade applet 318) configured to collect version information on the first modules when said unit has received a version information acquisition request from the management apparatus by e-mail (col.7, lines 62-67, and col.8, lines 10-13); and

a returning unit (e-mail application program) configured to send the version information collected by said information collecting unit to the management apparatus by return e-mail (col.5, lines 28-36, col.7, lines 62-67, and col.8, lines 31-38 and 54-64).

Turnbull does not explicitly teach wherein:

a processing unit is configured to activate the install script contained in the update instruction e-mail containing the second modules and an install script; and

wherein said processing unit is configured to activate the install script contained in the update instruction e-mail received by said receiving unit, and to update the first modules in operation to the second modules contained in the update instruction e-mail received by said receiving unit.

However, Inamori in a similar field of endeavor discloses a contents delivery system including the steps wherein:

a receiving unit configured to receive an update instruction e-mail containing second modules and an install script (pars [0071-0074], [0086-0089]); and

wherein a processing unit is configured to activate the install script contained in the update instruction e-mail received by said receiving unit, and to update first modules in operation to the second modules contained in the update instruction e-mail received by said receiving unit (pars [0071-0074], [0086-0089]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made in order to enable the management apparatus to automatically update the first modules and deliver the second modules with no specific process required by the monitoring apparatus. One of ordinary skill in the art at the time the

invention was made would have been motivated to combine the teachings of Turnbull and Inamori to economically and simultaneously deliver the second modules to the monitoring apparatus with existing infrastructures (pars [0006-0011].

Regarding Claim 2, the combined teachings of Turnbull and Inamori further teach wherein:

said receiving unit is also configured to receive an update instruction e-mail containing at least the second modules and an install script (Inamori: pars [0071-0074], [0086-0089]) and an acquisition request e-mail requesting acquisition of the version information indicative of versions of respective ones of the first modules in the monitoring apparatus and a version of the monitoring apparatus as a whole (Turnbull: col.7, lines 60-67, and col.8, lines 10-13),

wherein said information collecting unit is configured to collect the version information in response to the acquisition request e- mail received by said receiving unit (Turnbull: col.8, lines 10-13), and said returning unit is configured to send the version information collected by said information collecting unit to the management apparatus by return e-mail (Turnbull: col.8, lines 31-38, and 54-64).

Regarding Claim 9, Turnbull teaches a control method executed by a monitoring apparatus (host computer 108) capable of acquiring information by communication from at least one image forming apparatus (computing device 102(2)) to be monitored, and

communicating with a management apparatus (server 110) (col.4, lines 55-58, col.5, lines 61-67, and col.6, lines 1-2), the method comprising:

a communication step of carrying out communication with the management apparatus by e-mail (col.5, lines 28-36, and col.7, lines 62-67);

a processing step of automatically updating first modules (current firmware) on which the monitoring apparatus operates, in operation to the second modules for updating the first modules when second modules (upgraded firmware) for updating the modules is received from the management apparatus by e-mail in said communication step (col.5, lines 36-51, col.7, lines 30-34 and lines 62-67, and col.8, lines 58-60);

an information collecting step of collecting version information on the first modules when a version information acquisition request is received from the management apparatus by e-mail in said communication step (col.7, lines 62-67, and col.8, lines 10-13); and

a returning step of sending the version information collected in said information collecting step to the management apparatus by return mail (col.5, lines 28-36, col.7, lines 62-67, and col.8, lines 31-38 and lines 54-64).

Turnbull does not explicitly teach wherein the update instruction e-mail containing the second modules and an install script; and

wherein said processing step is configured to activate the install script contained in the update instruction e-mail received by said receiving step, and to update the first

modules in operation to the second modules contained in the update instruction e-mail received by said receiving step.

However, Inamori in a similar field of endeavor discloses a contents delivery system including the steps wherein an a receiving step configured to receive an update instruction e-mail containing second modules and an install script (pars [0071-0074], [0086-0089]); and

wherein a processing step is configured to activate the install script contained in the update instruction e-mail received by said receiving step, and to update first modules in operation to the second modules contained in the update instruction e-mail received by said receiving step (pars [0071-0074], [0086-0089]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made in order to enable the management apparatus to automatically update the first modules and deliver the second modules with no specific process required by the monitoring apparatus. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Turnbull and Inamori to economically and simultaneously deliver the second modules to the monitoring apparatus with existing infrastructures (pars [0006-0011].

Regarding Claim 10, Turnbull teaches a control method according to claim 9 as discussed above. Turnbull further teaches wherein the method further comprises:

a receiving step of receiving an update instruction e-mail containing at least the second modules and an install script, and an acquisition request e-mail requesting

acquisition of the version information indicative of versions of respective ones of the modules in the monitoring apparatus and a version of the monitoring apparatus as a whole (col.7, lines 60-67, and col.8, lines 10-13);

wherein said processing step comprises activating the install script contained in the update instruction e-mail received in said receiving step, and updating the first modules in operation to the second modules contained in the update instruction e-mail received in said receiving step, and said information collecting step comprises collecting the version information in response to the acquisition request e-mail received in said receiving step, and said returning step comprises sending the version information collected in said information collecting step to the management apparatus by return e-mail (col.5, lines 39-42, col.7, lines 30-33, and col.8, lines 31-38, and lines 54-64).

Regarding Claim 17, Turnbull teaches a computer-readable medium storing a computer program for executing a control method implemented by a monitoring apparatus (host computer 108) capable of acquiring information by communication from at least one image forming apparatus (computing device 102(2)) to be monitored, and communicating with a management apparatus (server 110) (col.6, lines 12-17, and lines 39-56), the method comprising:

a communication step of carrying out communication with the management apparatus by e-mail (col.5, lines 28-36, and col.7, lines 62-67);

a processing step of automatically updating first modules (current firmware) on which the monitoring apparatus operates, in operation to the second modules for

updating the first modules when second modules (upgraded firmware) for updating the modules is received from the management apparatus by e-mail in said communication step (col.5, lines 36-51, col.7, lines 30-34 and lines 62-67, and col.8, lines 58-60),

an information collecting step of collecting version information on the first modules when a version information acquisition request is received from the management apparatus by e-mail in said communication step (col.7, lines 62-67, and col.8, lines 10-13); and

a returning step of sending the version information collected in said information collecting step to the management apparatus by return mail (col.5, lines 28-36, col.7, lines 62-67, and col.8, lines 31-38 and lines 54-64).

Turnbull does not explicitly teach wherein the update instruction e-mail containing the second modules and an install script; and

wherein said processing step is configured to activate the install script contained in the update instruction e-mail received by said receiving step, and to update the first modules in operation to the second modules contained in the update instruction e-mail received by said receiving step.

However, Inamori in a similar field of endeavor discloses a contents delivery system including the steps wherein an a receiving step configured to receive an update instruction e-mail containing second modules and an install script (pars [0071-0074], [0086-0089]); and

wherein a processing step is configured to activate the install script contained in the update instruction e-mail received by said receiving step, and to update first

modules in operation to the second modules contained in the update instruction e-mail received by said receiving step (pars [0071-0074], [0086-0089]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made in order to enable the management apparatus to automatically update the first modules and deliver the second modules with no specific process required by the monitoring apparatus. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Turnbull and Inamori to economically and simultaneously deliver the second modules to the monitoring apparatus with existing infrastructures (pars [0006-0011].

Regarding Claim 19, Turnbull teaches a monitoring apparatus (host computer 108) capable of acquiring information by communication from at least one image forming apparatus (computing device 102(2)) to be monitored and communicating with a management apparatus (server 110) (col.5, lines 61-67, and col.6, lines 1-2), the monitoring apparatus comprising:

an e-mail unit configured to carry out communication with the management apparatus by email (col.5, lines 28-36 and col.7, lines 62-67);

a processing unit configured to be operable when said e-mail unit has received an update instruction e-mail containing second modules for updating first modules, on which the monitoring apparatus operates, and an install script from the management apparatus, to automatically update the first modules in operation to the second modules

corresponding to description of the install script (col.5, lines 36-51, col.7, lines 30-33 and lines 62-67);

an information collecting unit configured to collect version information on the first modules when said e-mail unit has received an acquisition request e-mail that requests acquisition of the version information on the first modules from the management apparatus by e- mail (col.7, lines 62-67 and col.8, lines 10-13); and

a returning unit configured to send the version information collected by said information collecting unit to the management apparatus by return e-mail (col.5, lines 28-36, col.7, lines 62-67, col.8, lines 31-38, and lines 54-64),

wherein the install script includes at least one or more commands which are executable in an operating system including said processing unit in the monitoring apparatus (col.7, lines 30-34, and lines 63-67).

Regarding Claim 20, Turnbull further teaches wherein the acquisition request e-mail requests acquisition of the version information indicative of versions of respective ones of the first modules in the monitoring apparatus and a version of the monitoring apparatus as a whole (col.7, lines 60-67, and col.8, lines 10-13).

Regarding Claim 21, Turnbull teaches a control method executed by a monitoring apparatus (host computer 108) capable of acquiring information by communication from at least one image forming apparatus (computing device 102(2)) to be monitored, and

communicating with a management apparatus (server 110) (col.5, lines 61-67, and col.6, lines 1-2), the method comprising:

a communication step of carrying out communication with the management apparatus by email (col.5, lines 28-36 and col.7, lines 62-67);

a processing step of automatically updating first modules, on which the monitoring apparatus operates, in operation to second modules corresponding to description of the install script when an update instruction e-mail containing at least second modules for updating first modules and the install script are received from the management apparatus in said communication step (col.5, lines 36-51, col.7, lines 30-34 and line 62-67, and col.8, lines 58-60);

an information collecting step of collecting version information on the first modules when an acquisition request e-mail that requests acquisition of the version information on the first modules is received from the management apparatus by e-mail in said communication step (col.7, lines 62-67, and col.8, lines 10-13); and

a returning step of sending the version information collected in said information collecting step to the management apparatus by return e-mail (col.5, lines 28-36, col.8, lines 31-38, and lines 54-64),

wherein the install script includes at least one or more commands which are executable in an operating system including said processing step in the monitoring apparatus (col.7, lines 30-34, and lines 63-67).

Regarding Claim 22, Turnbull teaches a control method according to claim 21 as discussed above. Turnbull further teaches wherein the acquisition request e-mail requests acquisition of the version information indicative of versions of respective ones of the first modules in the monitoring apparatus and a version of the monitoring apparatus as a whole (col.7, lines 60-67, and col.8, lines 10-13).

8. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turnbull in further view of Inamori and in further view of Loughran et al (US 2002/0129107) (referred herein after as Loughran).

Regarding Claim 3, Turnbull teaches a monitoring apparatus according to claim 1 as discussed above. Turnbull does not explicitly teach wherein the monitoring apparatus further comprises a decoding unit configured to decode contents of an e-mail received by said e-mail unit, and wherein said unit is configured to interpret an instruction from the management apparatus from the contents of the received e-mail decoded by said decoding unit, and to perform processing according to the interpreted contents of the e-mail.

However, Loughran in a similar field of endeavor discloses a method and apparatus for automatic content handling including wherein the monitoring apparatus (email server 10) further comprises a decoding unit (email server 10) configured to decode contents of an e-mail received by said e-mail unit, and wherein said unit is configured to interpret an instruction from the management apparatus from the contents

of the received e-mail decoded by said decoding unit, and to perform processing according to the interpreted contents of the e-mail (pars [0009], [0025-0026], [0037], and [0046]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Turnbull with the teachings of Loughran in order to automatically interpret the contents of an e-mail with out user intervention. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Turnbull and Loughran to help make upgrades more accessible and require less effort from the users of the apparatuses (Turnbull: col.1, lines 65-67, and col.2, lines 1-53)

Regarding Claim 11, this control method claim comprises limitation(s) substantially the same, as those discussed on claim 3 above, same rationale of rejection is applicable.

10. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turnbull in further view of Inamori and in further view of Dull, III et al. (US 7,458,074) (referred hereinafter as Dull).

Regarding Claim 24, Turnbull teaches a processing unit (CPU 336) configured to be operable when said e-mail unit has received an update instruction e-mail for

updating first modules (current firmware), on which the monitoring apparatus operates (col.5, lines 36-51, and col.7, lines 30-33 and lines 62-67).

Turnbull does not explicitly teach the steps:

wherein the update instruction e-mail contains second modules and an install script from the management apparatus, to automatically update the first modules in operation to the second modules corresponding to description of the install script.

However, Inamori in a similar field of endeavor discloses a contents delivery system including the steps wherein:

wherein the update instruction e-mail contains second modules and an install script from the management apparatus, to automatically update the first modules in operation to the second modules corresponding to description of the install script (pars [0071-0074], [0086-0089]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made in order to enable the management apparatus to automatically update the first modules and deliver the second modules with no specific process required by the monitoring apparatus. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Turnbull and Inamori to economically and simultaneously deliver the second modules to the monitoring apparatus with existing infrastructures (pars [0006-0011]).

The combined teachings of Turnbull and Inamori do not explicitly teach the steps of:

wherein said processing unit starts the updating at either one of first timing when said first modules does not start in accordance with the description of the install script, second timing when said first modules are caused to stop, third timing when said first module finishes executing, ***or*** fourth timing when said monitoring apparatus has just restarted.

However, Dull in a similar field of endeavor discloses a method and apparatus for installing and upgrading an application in a computer system including wherein processing unit starts the updating at either one of first timing when first modules does not start in accordance with a description of an install script, second timing when said first modules are caused to stop, third timing when said first modules finishes executing, or fourth timing when said monitoring apparatus has just restarted (e.g., upgrade objects include a start time field and end time field, col.3, lines 65-67, col.4, lines 37-45, 51-58).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Dull in order to configure when the management apparatus desires the monitoring apparatus to upgrade the first modules. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Turnbull/Inamori/Dull to simplify the method of installing and upgrading software on a computer system (Dull: col.1, lines 29-67).

To help expedite prosecution, it has been noted by the examiner, that if Applicant amends the above claim to explicitly state: "…wherein said processing unit starts the updating at ~~either one of~~ **a** first timing when said first modules does not start in

accordance with the description of the install script, second timing when said first modules are caused to stop, third timing when said first module finishes executing, ***and*** fourth timing when said monitoring apparatus has just restarted, as discussed in page 35, lines 16-25 of written description, the independent Claim 23 would be allowable over the prior art of record.

Regarding Claim 24, Turnbull teaches a control method executed by a monitoring apparatus (host computer 108) capable of acquiring information by communication from at least one image forming apparatus (computing device 102(2)) to be monitored, and communicating with a management apparatus (server 110) (col.5, lines 61-67, and col.6, lines 1-2), the method comprising:

an e-mail step of carrying out communication with the management apparatus by e-mail (col.5, lines 28-36 and col.7, lines 62-67); and

a processing step of automatically updating first modules, on which the monitoring apparatus operates, in operation to second modules, when said e-mail step has received an update instruction e-mail for updating the first modules from the management apparatus (col.5, lines 36-51, col.7, lines 30-34 and lines 62-67, and col.8, lines 58-60).

Turnbull does not explicitly teach the steps:

wherein the update instruction e-mail contains second modules and an install script from the management apparatus, to automatically update the first modules in operation to the second modules corresponding to description of the install script.

However, Inamori in a similar field of endeavor discloses a contents delivery system including the steps wherein:

wherein the update instruction e-mail contains second modules and an install script from the management apparatus, to automatically update the first modules in operation to the second modules corresponding to description of the install script (pars [0071-0074], [0086-0089]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made in order to enable the management apparatus to automatically update the first modules and deliver the second modules with no specific process required by the monitoring apparatus. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Turnbull and Inamori to economically and simultaneously deliver the second modules to the monitoring apparatus with existing infrastructures (pars [0006-0011]).

The combined teachings of Turnbull and Inamori do not explicitly teach the steps of:

wherein said processing step starts the updating at either one of first timing when said first modules does not start in accordance with the description of the install script, second timing when said first modules are caused to stop, third timing when said first

module finishes executing, ***or*** fourth timing when said monitoring apparatus has just restarted.

However, Dull in a similar field of endeavor discloses a method and apparatus for installing and upgrading an application in a computer system including wherein said processing step starts the updating at either one of first timing when said first modules does not start in accordance with the description of the install script, second timing when said first modules are caused to stop, third timing when said first module finishes executing, or fourth timing when said monitoring apparatus has just restarted (e.g., upgrade objects include a start time field and end time field, col.3, lines 65-67, col.4, lines 37-45, 51-58).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Dull in order to configure when the management apparatus desires the monitoring apparatus to upgrade the first modules. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Turnbull/Inamori/Dull to simplify the method of installing and upgrading software on a computer system (Dull: col.1, lines 29-67)

To help expedite prosecution, it has been noted by the examiner, that if Applicant amends the above claim to explicitly state: "...wherein said processing step starts the updating at ~~either one of~~ **a** first timing when said first modules does not start in accordance with the description of the install script, second timing when said first modules are caused to stop, third timing when said first module finishes executing, ***and*** fourth timing when said monitoring apparatus has just restarted, as discussed in page

35, lines 16-25 of written description, the independent Claim 24 would be allowable over the prior art of record.

Conclusion

Examiner has cited particular paragraphs, columns, and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY MEJIA whose telephone number is (571)270-3630. The examiner can normally be reached on Mon-Thur 9:30AM-8:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A.M./
Patent Examiner, Art Unit 2451

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451